magnetic tape submission, the Commission states:

1. The Federal Power Commission will collect 1976 data on existing forms as it has in prior years. As part of parallel reporting, essentially the same data will be collected on the new forms, after it has been submitted on the existing forms. For annual reports the data will be collected on the new forms no earlier than 60 days after the submission on the old forms. The precise schedule for monthly and event type submissions has not yet been fully determined but will occur no earlier than July 1977.

2. During the parallel reporting period, the Federal Power Commission will welcome any and all suggestions that respondents desire to submit regarding the new forms. Respondents' comments will be evaluated, together with internal comments to determine changes to be made to the forms, magnetic tape submission procedures, or other aspects of the new respondent reporting system.

3. A substantial number of the comments received to date were concerned with the time allowed for rulemaking review and new form submission. These comments centered on the requirement to submit magnetic tape and the lack of a data directory to assist them in preparing the tapes. Therefore, magnetic tape submission will be voluntary during the period of parallel reporting. Further, the FPC will conduct a pilot test of the magnetic tape submission procedure during the same parallel reporting period for those companies desiring to submit tapes.

By direction of the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-32573 Filed 11-4-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Parts 651, 653, 658]

SERVICES TO MIGRANT AND SEASONAL FARMWORKERS; EMPLOYMENT SERVICE COMPLAINT SYSTEM, MONITORING AND ENFORCEMENT

Extension of Comment Period

On October 5, 1976, at 41 FR 44014 the Department of Labor published proposed regulations for 20 CFR Parts 651, 653 and 658 on services to Migrant and Seasonal Farmworkers, the Employment Service Complaint System, and the monitoring and enforcement responsibilities of the employment service system. Comments on the proposal were invited for thirty days until November 5, 1976.

Since that time the Migrant Legal Action Program, (MLAP) Inc. has written to the Department asking for an extension of the comment period. MLAP believes it will not be able to submit its comments within the thirty day period. Other potential commentators are perhaps in the same position. Therefore, in order to afford all potential commentators ample time to comment, the Department is extending the comment period until December 6, 1976.

Signed at Washington, D.C., this 2d day of November 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and training.

[FR Doc.76-32648 Filed 11-4-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 601]

STATEMENT OF PROCEDURAL RULES

Withdrawal of Proposed Amendments; Public Inspection of Certain Rulings and Determination Letters

The purpose of this document is to withdraw proposed amendments to the Statement of Procedural Rules (26 CFR Part 601), published December 10, 1974 (39 FR 43087), relating to public inspection of certain rulings and determination letters. The amendments to the Statement of Procedural Rules (26 CFR Part 601) was proposed to provide rules pursuant to which the Internal Revenue Service would make available for public inspection certain rulings and determination letters.

Since these amendments were proposed, Congress passed the Tax Reform Act of 1976 (Pub. L. 94-455). Section 1201(a) of the Act adds section 6110 to the Internal Revenue Code of 1954 to provide statutory rules for public inspection of certain written determination and background file documents.

As a result of section 6110 the proposed amendments to the Statement of Procedural Rules are unnecessary. However, published today at _____, the Internal Revenue Service is adopting new amendments to the Statement of Procedural Rules to inform persons requesting a ruling letter or participating in a technical advice request of additional information to the supplied to the Internal Revenue Service as a result of section 6110.

In view of the foregoing, the proposed amendments to the Statement of Procedural Rules (26 CFR Part 601) published in the FEDERAL REGISTER (39 FR 43087) is hereby withdrawn.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.76-32751 Filed 11-3-76;4:26 pm]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. OSH-37]

PROPOSED STANDARD FOR EXPOSURE TO INORGANIC ARSENIC

Opportunity To Comment on New Information

The Occupational Safety and Health Administration has recently received information which may be of relevance in its proceeding to develop a new standard for occupational exposure to inorganic arsenic. The information consists of:

1. An article by Shinkan Tukudome and Massanori Kuratsune entitled "A Cohort Study on Mortality from Cancer and Other Causes among Workers at a Metal Refinery," Int. J. Cancer 17:310 (1976). The article reports an increase in respiratory cancer among employees of a copper smelter exposed to arsenic.

2. A document by Arthur Young & Co., entitled "A Reply to A. D. Little's 'Critique of the Arthur Young Inflationary Impact Statement on Inorganic Arsenic'." The document principally discusses an econometric model which analyzes economic effects of certain regulatory alternatives.

3. Analyses on whether differentiation should be made between the carcinogenic risks of trivalent and pentavalent inorganic arsenic by H. F. Kraybill, PhD., Scientific Coordinator for Environmental Cancer, National Cancer Institute of Occupational Safety and Health; J. William Lloyd, Sc. D.; Edward Radford, M.D. and Marie Rhyne, M.D. The question of whether pentavalent inorganic arsenic should be regulated as an occupational carcinogen has proved to be both difficult and controversial. Therefore, OSHA believed that it would be advisable to request the analyses and recommendations of these persons based on the evidence existing in the inorganic arsenic record.

These materials are available for public inspection and copying from the Docket Officer, Docket No. OSH-37, Technical Data Center, Room N3620, New Department of Labor Building, Third Street and Constitution Avenue, NW., Washington, D.C. 20210 (Telephone 202-523-8076). In addition, copies will be mailed upon telephone request at the usual copying charge.

Comments are invited which relate only to the above materials. Such comments must be postmarked on or before December 9, 1976 and submitted in quadruplicate to the Docket Officer, Docket No. OSH-37 at the above address. The materials listed and the comments received will be made part of the inorganic arsenic record.

Briefs and analyses based on the evidence introduced at the September 8, 1976 hearing on the economic and technological feasibility of inorganic arsenic regulatory alternatives and new evidence were due November 2, 1976. That date is not being extended and comments pursuant to this notice must be limited to the materials listed in this notice.

(Secs. 4(b), 6(b) and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653(b), 655(b), 657), 29 CFR Part 1911 and Secretary of Labor's Order No. 8-76 (41 FR 24059, June 22, 1976).)

Signed at Washington, D.C., this 2d day of November 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-43649 Filed 11-4-76;8:45 am]

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 204]

DANGER ZONE REGULATIONS, PACIFIC OCEAN, CALIFORNIA

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3) the regulations set forth in tentative form below are proposed by the Secretary of the Army (acting through the Chief of Engineers) to amend 33 CFR 204.203 which establishes a danger zone in the Pacific Ocean at San Miguel Island, California. We propose to amend only paragraph (c)(9) to extend the period of use to 1 July 1978.

Prior to the adoption of the proposed regulations consideration will be given to any comments, suugestions or objections thereto which are submitted in writing to the Office of Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN-CWO-N on or before 5 December 1976.

§ 204.203 **Pacific Ocean at San Miguel Island, Calif., naval danger zone.**

* * * * *

(c) *The Regulations.* * * *

(9) The regulation in this section shall be in effect until 1 July 1978 and shall be reviewed in May 1978 to determine the continuing need.

By authority of the Secretary of the Army.

Dated: November 1, 1976.

Approved:

MARVIN W. REES,
Colonel, Corps of Engineers,
Executive Director of Civil Works.

R. S. SEEBERG,
LTC, U.S. Army, Acting Director, Admin Mgt Directorate, TA GCEN.

[FR Doc.76-32527 Filed 11-4-76;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

VETERANS BENEFITS

Increased Disability Compensation and Dependency and Indemnity Compensation

The Administrator of Veterans Affairs proposes regulatory changes in Part 3 of Title 38, Code of Federal Regulations, to implement provisions of Pub. L. 94-433 (90 Stat. 1374).

Pub. L. 94-433, enacted September 30, 1976, and effective October 1, 1976, amends various sections of Title 38, United States Code, to increase disability compensation rates and dependency and indemnity compensation rates for widows, widowers and children. This law also increases the clothing allowance authorized by 38 U.S.C. 362 from $175 to $190.

To implement these rate increases the following changes are proposed. Sections 3.5, 3.350, 3.552 and 3.810 of Title 38, Code of Federal Regulations are amended to either reflect the new rates or to substitute the statutory citation where the rate is set forth in place of the monetary amount. The rates in Title 38, United States Code, are controlling and these rates are published in Appendix B of the Department of Veterans Benefits Manual M21-1. Section 3.21 is being added to show that the publication of monetary rates in M21-1 has the same force and effect as if published in the regulations (Title 38, Code of Federal Regulations). Monetary rates are being kept in the regulations only in those areas where past experience has shown the need for them.

Pub. L. 94-433 substitutes "Hansen's disease" for "leprosy" in 38 U.S.C. 301. Section 3.309 of Title 38, Code of Federal Regulations is amended to reflect the change in terminology.

Pub. L. 94-433 authorizes an increased rate of compensation for a married veteran whose service-connected disablement is evaluated as 50 percent or more disabling and whose spouse is in need of aid and attendance. The amount payable is $78 monthly to a veteran in receipt of compensation at the 100 percent rate with proportionate amounts payable to veterans in receipt of compensation at the 50 through 90 percent rates. The spouse's aid and attendance allowance is payable in lieu of and not in addition to, the amount authorized for a spouse not in need of aid and attendance. To implement the spouse's aid and attendance allowance it is proposed to amend §§ 3.351, 3.401 and 3.501 of Title 38, Code of Federal Regulations.

The date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension by reason of marriage, divorce or death of a dependent of a payee is the last day of the calendar year in which the marriage, divorce or death occurred. (38 U.S.C. 3012(b)) Pub. L. 94-433 adds annulment to the list of events in section 3012(b) which permits the Veterans Administration to delay reduction of a payee's award until the end of the calendar year in which the event occurred. To implement this change to 38 U.S.C. 3012 (b) it is proposed to amend §§ 3.501 and 3.660 of Title 38, Code of Federal Regulations.

Certain seriously disabled veterans are provided an allowance toward the purchase of an automobile. Public Law 94-433 permits payment of this benefit to veterans with the requisite degree of disability who served on or after September 16, 1940. Prior to the enactment of Pub. L. 94-433 the automobile allowance was payable based on service on or after December 7, 1941. September 16, 1940 is the date of enactment of the Selective Training and Service Act of 1940. To implement this change it is proposed to amend § 3.808 of Title 38, Code of Federal Regulations.

Public Law 94-433, also provides that where a veteran dies as a result of service-connected disablement, or is in receipt of service-connected disability compensation at time of death (or would be entitled to service-connected disability compensation at time of death but for receipt of military retired pay or non-service-connected disability pension), the Veterans Administration may pay the cost of transporting the veteran's body to a national cemetery for burial. The amount payable may not exceed the cost of transporting the body from the veteran's place of death to the national cemetery nearest the veteran's last place of residence in which burial space is available. This benefit is in addition to the basic $250 burial allowance or the $800 burial allowance which is payable when the cause of death is service connected. To implement this new benefit it is proposed to amend §§ 3.1600 and 3.1606 of Title 38, Code of Federal Regulations.

Where applicable, minor editorial changes have been made in the aforementioned sections of Title 38, Code of Federal Regulations as well as in §§ 3.502, 3.503 and 3.1609 to reflect that they apply equally to male and female veterans and beneficiaries.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A) Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before December 6, 1976, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is hereby given that the amendments implementing Pub. L. 94-433 will be effective October 1, 1976, the effective date of Pub. L. 94-433. The addition of § 3.21 will be effective the date of final approval.

The economic and inflationary impacts have been evaluated in accordance with OMB Circular A-107.

Approved: November 1, 1976.

By direction of the Administrator.

ODELL W. VAUGHN,
Deputy Administrator.

1. In § 3.5, paragraphs (e)(3) and (4) are revised to read as follows:

§ 3.5 **Dependency and indemnity compensation.**

* * * * *

(e) *Widow's or widower's rate.* * * *

(3) If there is a widow or widower with one or more children under the age of 18 (including a child not in the widow's or widower's actual or constructive custody and a child who is in active military, air,

or naval service), the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(b) for each child.

(4) If the widow or widower is determined to be in need of aid and attendance under the criteria in § 3.352 or is a patient in a nursing home, the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(c).

2. Section 3.21 is added to read as follows:

§ 3.21 Monetary rates.

The rates of compensation, dependency and indemnity compensation, and pension as well as the income limitations applicable to pension and parent's dependency and indemnity compensation as published in tabular form in Appendix B of Department of Veterans Benefits Manual M21-1 [1] are to be given the same force and effect as if published in the regulations (Title 38, Code of Federal Regulations).

3. In § 3.309, paragraphs (a) and (b) are revised to read as follows:

§ 3.309 Disease subject to presumptive service connection.

(a) *Chronic diseases.* The following diseases may be considered for service connection although not otherwise established as incurred in service if manifested to a compensable degree within the applicable time limits under § 3.307 following service in a period of war or following peacetime service on or after January 1, 1947.

Anemia, primary.
Arteriosclerosis.
Arthritis.
Atrophy, progressive muscular.
Brain hemorrhage.
Brain thrombosis.
Bronchiectasis.
Calculi of the kidney, bladder, or gallbladder.
Cardiovascular-renal disease, including hypertension. (This term applies to combination involvement of the type of arteriosclerosis, nephritis, and organic heart disease, and since hypertension is an early symptom long preceding the development of those diseases in their more obvious forms, a disabling hypertension within the 1-year period will be given the same benefit of service connection as any of the chronic diseases listed.)
Cirrhosis of the liver.
Coccidioidomycosis.
Diabetes mellitus.
Encephalitis lethargica residuals.
Endocarditis. (This term covers all forms of valvular heart disease.)
Endocrinopathies.
Epilepsies.
Hansen's disease.
Hodgkin's disease.
Leukemia.
Myasthenia gravis.
Myelitis.
Myocarditis.
Nephritis.
Other organic diseases of the nervous system.
Osteitis deformans (Paget's disease).
Osteomalacia.
Palsy, bulbar.
Paralysis agitans.
Psychoses.
Purpura idiopathic, hemorrhagic.
Raynaud's disease.
Sarcoidosis.
Scleroderma.
Sclerosis, amyotrophic lateral.
Sclerosis, multiple.
Syringomyelia.
Thromboangiitis obliterans (Buerger's disease).
Tuberculosis, active.
Tumors, malignant, or of the brain or spinal cord or peripheral nerves.
Ulcers, peptic (gastric or duodenal) (A proper diagnosis of gastric or duodenal ulcer (peptic ulcer) is to be considered established if it represents a medically sound interpretation of sufficient clinical findings warranting such diagnosis and provides an adequate basis for a differential diagnosis from other conditions with like symptomatology; in short, where the preponderance of evidence indicates gastric or duodenal ulcer (peptic ulcer). Whenever possible, of course, laboratory findings should be used in corroboration of the clinical data.).

(b) *Tropical diseases.* The following diseases may be considered for service connection as a result of tropical service, although not otherwise established as incurred in service if manifested to a compensable degree within the applicable time limit under § 3.307 or § 3.308 following service in a period of war or following peacetime service.

Amebiasis.
Blackwater fever.
Cholera.
Dracontiasis.
Dysentery.
Filariasis.
Hansen's disease.
Leishmaniasis, including kala-azar.
Loiasis.
Malaria.
Onchocerciasis.
Oroya fever.
Pinta.
Plague.
Schistosomiasis.
Yaws.
Yellow fever.
Resultant disorders or diseases originating because of therapy administered in connection with such diseases or as a preventative thereof.

* * * * *

4. In § 3.350, the introductory portion of paragraphs (a), (b), (c), (e) and (i) preceding subparagraph (1) and paragraphs (d), (f)(1) and (2)(i) through (iv) and (h) are revised to read as follows:

§ 3.350 Special monthly compensation ratings.

The rates of special monthly compensation stated in this section are those provided under 38 U.S.C. 314.

(a) *Ratings under 38 U.S.C. 314(k).* Special monthly compensation under 38 U.S.C. 314(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye, having only light perception, deafness of both ears, having absence of air and bone conduction, or complete organic aphonia with constant inability to communicate by speech. This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed $879 monthly when authorized in conjunction with any of the provisions of 38 U.S.C. 314(a) through (j) or (s). When there is entitlement under 38 U.S.C. 314 (l) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates, provided the total does not exceed $1,231 per month. The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38 U.S.C. 315, or the special allowance for aid and attendance provided by 38 U.S.C. 314(r).

* * * * *

(b) *Ratings under 38 U.S.C. 314(l).* The special monthly compensation provided by 38 U.S.C. 314(l) is payable for anatomical loss or loss of use of both hands, both feet, one hand and one foot, blindness in both eyes with visual acuity of 5/200 or less or being permanently bedridden or so helpless as to be in need of regular aid and attendance.

* * * * *

(c) *Ratings under 38 U.S.C. 314(m).* The special monthly compensation provided by 38 U.S.C. 314(m) is payable for anatomical loss or loss of use of two extremities at a level or with complications preventing natural elbow or knee action with prosthesis in place; or for blindness in both eyes having light perception; or for blindness in both eyes rendering the veteran so helpless as to be in need of regular aid and attendance.

* * * * *

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or anatomical loss of both eyes. Amputation is a prerequisite. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

(e) *Ratings under 38 U.S.C. 314(o).* The special monthly compensation provided by 38 U.S.C. 314(o) is payable for conditions entitling to two or more of the rates (no condition being considered twice) provided in 38 U.S.C. 314 (l) through (n) or for bilateral deafness rated at 60 percent or more disabling, and the hearing impairment in one or both ears is service connected, in combination with service-connected blindness with bilateral visual acuity 5/200 or less.

* * * * *

(f) *Intermediate or next higher rate; 38 U.S.C. 341(p)—(1) Extremities.* (i) Anatomical loss or loss of use of one extremity with the anatomical loss or loss of use of another extremity at a level or with complications preventing natural elbow or knee action with prosthesis in

[1] Available in VA regional offices and VA centers.

place will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $924.

(ii) Anatomical loss or loss of use of one extremity with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate equal to 38 U.S.C. 314(m).

(iii) Anatomical loss or loss of use of extremity at a level preventing natural elbow or knee action with prosthesis in place with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $1,034.

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $924.

(ii) Blindness of one eye with 5/200 visual acuity or less and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the other eye, will entitle to a rate equal to 38 U.S.C. 314(m).

(iii) Blindness of one eye having only light perception and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the eye, will entitle to a rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $1034.

(iv) Total blindness of both eyes having no light perception accompanied by phthisis bulbi, evisceration, or other obvious deformity or disfigurement will entitle to a rate equal to 38 U.S.C. 314(n).

* * * * *

(h) *Special aid and attendance benefit in maximum monthly compensation cases; 38 U.S.C. 314(r).* A veteran receiving the maximum rate ($1,231) of special monthly compensation under any provision or combination of provisions in 38 U.S.C. 314 who is in need of regular aid and attendance is entitled to an additional allowance during periods he or she is not hospitalized at United States Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) The rate is $528. Determination of this need is subject to the criteria of § 3.352. The additional allowance is payable whether or not the need for regular aid and attendance was a partial basis for entitlement to the maximum $1,231 rate, or was based on an independent factual determination.

(i) *Total plus 60 percent, or housebound; 38 U.S.C. 314(s).* The special monthly compensation provided by 38 U.S.C. 314(s) is payable where the veteran has a single service-connected disability rated as 100 percent without resort to individual unemployability and,

* * * * *

5. In § 3.351, the section heading, paragraph (a) and the introductory portion of paragraph (c) preceding subparagraph (1) are revised to read as follows:

§ 3.351 Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings.

(a) *Aid and attendance; general.* Additional pension for veterans in need of regular aid and attendance is provided for Spanish-American War Veterans (38 U.S.C. 512) and for veterans of the Mexican border period, World War I, World War II, the Korean conflict or the Vietnam era (38 U.S.C. 521). Additional pension for widows and widowers in need of regular aid and attendance is provided for widows and widowers of veteran of all periods of war, including those entitled to pension under the law in effect on June 30, 1960, based on service in World War I, World War II or the Korean conflict (38 U.S.C. 544). Additional compensation is provided for a married veteran receiving compensation of the 50 percent rate or greater whose spouse is in need of regular aid and attendance. (38 U.S.C. 315(1)(I)) Additional dependency and indemnity compensation and death compensation for widows and widowers and for parents in need of regular aid and attendance is provided for widows and widowers and for parents of veterans of all periods of service. (38 U.S.C. 322(b); 411(c); 415(h))

* * * * *

(c) *Aid and attendance; criteria.* The veteran, spouse, widow, widower, or parent will be considered in need of regular aid and attendance if he or she:

* * * * *

6. In § 3.401 the introductory language, paragraphs (a) and (c) are revised to read as follows:

§ 3.401 Veterans.

Awards of pension or compensation payable to or for a veteran will be effective as follows:

(a) *Aid and attendance (§3.552).* (1) Date of receipt of claim or date entitlement arose, whichever is later. (See also § 3.400(b)(2). (2) Date of departure from hospital, institution, or domiciliary, (3) Spouse, additional compensation for aid and attendance: Date of receipt of claim or date entitlement arose, whichever is later. (See also § 3.400(b)(2).)

* * * * *

(c) *Divorce (Annulment) of veteran and wife (husband).* See § 3.501(d).

* * * * *

7. In § 3.501, the introductory text, paragraph (b)(3) is added and paragraphs (d) and (i)(2) are revised to read as follows:

§ 3.501 Veterans.

The effective date of discontinuance of pension or compensation to or for a veteran will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(b) *Aid and attendance.* * * *

(3) *Aid and attendance for spouse.* End of month in which award action is taken if need for aid and attendance has ceased.

* * * * *

(d) *Divorce or annulment (38 U.S.C. 3012(b)(2)).* Last day of the calendar year in which divorce or annulment occurred.

* * * * *

(i) *Hospitalization.* * * *

(2) *§ 3.551(c).* First day of third calendar month following admission if veteran without spouse or child or, though married, is receiving pension at rate provided by 38 U.S.C. 521(b).

* * * * *

8. In § 3.502, the section heading, the introductory portion preceding paragraph (a), and paragraph (c) are revised to read as follows:

§ 3.502 Widows (widowers).

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a widow (widower) will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(c) *Legal widow (widower) entitled.* Date of last payment on award to another woman (man) as widow (widower). See § 3.657.

* * * * *

9. In § 3.503, the introductory portion preceding paragraph (a) and paragraphs (b) and (i) are revised to read as follows:

§ 3.503 Children.

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or widow (widower) on behalf of such child, will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

* * * * *

(b) *Enters service (§§ 3.450(b), 3.458(e)).* Date of last payment of apportioned disability benefits for child not in custody of estranged spouse. Full rate payable to veteran. No change where payments are being made for the child to the veteran, his (her) estranged spouse, his widow (her widower), or to the fiduciary of a child not in the widow's (widower's) custody.

* * * * *

(i) *Widow (widower) becomes entitled.* Date of last payment. See § 3.657.

* * * * *

10. In § 3.552, paragraphs (g) and (h) are revised to read as follows:

§ 3.552 Adjustment of allowance for regular aid and attendance.

* * * * *

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (1), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation of $1,231 because of entitlement to another rate under section 314(1) on account of need for aid and attendance the compensation will be reduced while hospitalized to the following:

(1) If entitlement is under section 314 (1) and in addition there is need for regular aid and attendance for another disability, the award during hospitalization will be $968 since the disability requiring aid and attendance is 100 percent disabling. (38 U.S.C. 314(p))

(2) If entitlement is under section 314 (m), $1,099.

(3) If entitlement is under section 314 (n), $1,231 would be continued, since the disability previously causing the need for regular aid and attendance would then be totally disabling entitling the veteran to the maximum rate under 38 U.S.C. 314 (p).

(h) If, because of blindness, a veteran requires regular aid and attendance, but has better vision than "light perception only" the award under 38 U.S.C. 314 (m) will be reduced while hospitalized to the rate payable under 38 U.S.C. 314 (1).

* * * * *

11. In § 3.660, paragraph (a)(2) is revised to read as follows:

§ 3.660 Dependency, income and estate.

(a) *Reduction or discontinuance.* * * *

(2) *Contingency.* Where reduction or discontinuance of a running award is required because of an increase in income, which increase could not reasonably have been anticipated based on the amount actually received from that source the year before, or because of an increase in corpus of estate or net worth or because dependency of a parent ceased or because dependency ceased due to the dependent's marriage, annulment, divorce or death the award will be reduced or discontinued effective the last day of the calendar year in which the increase occurred or dependency ceased. (38 U.S.C. 3012)

* * * * *

12. In § 3.808, paragraph (a) is revised to read as follows:

§ 3.808 Automobiles or other conveyances; certification.

* * * * *

(a) *Service.* The claimant must have had active military, naval or air service on or after September 16, 1940.

* * * * *

13. In § 3.810, the introductory portion of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 3.810 Clothing allowance.

(a) A veteran whose service-connected disability is compensable under laws administered by the Veterans Administration is entitled, upon application therefor, to an annual clothing allowance as specified in 38 U.S.C. 362 (payable in a lump sum).

* * * * *

14. In § 3.1600, paragraph (a) is revised and paragraph (g) is added to read as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(a) *Wartime veterans.* When a veteran of any war dies, an amount not to exceed $250 ($800 if death is service-connected) (where entitlement is based on § 3.8 (c) or (d), at a rate in Philippine pesos equivalent to $125 or $400 if death is service-connected) is payable on the burial and funeral expenses and transportation of the body to the place of burial, of otherwise entitled within the further provisions of §§ 3.1600 through 3.1611. For this purpose the period of any war is as defined in § 3.2, except that World War I extends only from April 6, 1917, through November 11, 1918, or if the veteran served with the United States military forces in Russia, through April 1, 1920. (38 U.S.C. 902; 907; 107(a).)

* * * * *

(g) *Transportation expenses for burial in national cemetery.* Where a veteran dies as the result of a service-connected disability, or at the time of death was in receipt of disability compensation (or but for the receipt of military retired pay or non-service-connected disability pension would have been entitled to disability compensation at time of death) there is payable, in addition to the burial allowance (either $250 or $800 if cause of death was service connected), an additional amount for payment of the cost of transporting the body to a national cemetery for burial. This amount may not exceed the cost of transporting the body from the veteran's place of death to the national cemetery nearest the veteran's last place of residence in which burial space is available. The amounts payable under this paragraph are subject to the limitations set forth in §§ 3.1604 and 3.1606.

15. In § 3.1606, the section heading, the introductory portion preceding paragraph (a) and paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 3.1606 Transportation items.

The transportation costs of those persons who come within the provisions of §§ 3.1600(g) and 3.1605(a), (b), (c) and (d) may include the following:

(a) *Shipment by common carrier.* (1) Charge for pickup of remains from place hospitalized or place of death but not to exceed the usual and customary charge made the general public for the same service.

* * * * *

(b) *Transported by hearse.* (1) Charge for pickup of remains from place hospitalized, or place of death, and

* * * * *

16. In § 3.1609, paragraph (a) is revised to read as follows:

§ 3.1609 Forfeiture.

(a) Forfeiture of benefits for fraud by a veteran during his or her lifetime will not preclude payment of burial and plot or interment allowance if otherwise in order. No benefits will be paid to a claimant who participated in the fraud which caused the forfeiture by the veteran.

* * * * *

[FR Doc.76-32618 Filed 11-4-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 640-2]

IOWA

Proposed Revision; Approval and Promulgation of Implementation Plans

On June 9, 1976, the Iowa Department of Environmental Quality (DEQ) submitted proposed revisions to the Iowa State Implementation Plan (SIP). The proposal consists of amendments to the Iowa Air Pollution Control Regulations and a chapter of DEQ Executive Committee Rules. The regulation amendments were adopted at several public hearings by the Iowa Air Quality Commission (IAQC). The Executive Committee Chapter was adopted by the Iowa DEQ Executive Committee in accordance with procedures which provide for public participation. Dates of adoption and effectiveness are given with the descriptions of the substantial revisions of each group.

Chapter 52, of the Executive Committee Rules, deals with confidentiality of information submitted to DEQ. It requires businesses which supply data to DEQ to specifically request confidentiality for information to be withheld. Should such information be requested, the director of DEQ will decide if it is to be released. An appeal procedure is provided for both companies and requestors who disagree with the director's decision. It specifically exempts from confidential treatment any air emission data.

Chapter 52 was adopted by the Executive Committee on November 20, 1975, and became effective on January 19, 1976.

Since Executive Committee Rules affect all divisions of DEC, the IAQC abolished its own Regulation 2.1(4), "Confidentiality," effective February 16, 1976.

Chapter 3, of the Air Pollution Control Regulations, is revised to require that the director, at the request of a source owner, must determine if a proposed source can be located at a particular site. This is unrelated to the requirement on sources that they obtain a permit from the State prior to the initiation of construction. That require-

ment is unchanged and remains a part of the approved SIP.

Permit applications are now required to be completed before the 60-day time limit for approval or denial begins.

The director can now require new permits for portable equipment on a portable source if, in its new location, it would otherwise prevent the attainment or maintenance of ambient air quality standards.

Exempted from permit requirements is equipment that emits only odors, equipment which eliminates all emissions, and fugitive dust controls to which a control efficiency cannot be assigned. Variances from New Source Performance Standards (NSPS) are disallowed.

Chapter 4, "Emission Standards," is amended to include, by reference, the Federal NSPS for electric arc furnaces promulgated September 23, 1975, and also by reference, any changes made before December 31, 1975, in the previously adopted NSPS.

The director is now allowed to impose an exhaust gas limit of 0.1 grains of particulate matter per standard cubic foot on any source which will cause air pollution even though other emission limits are met. Air pollution means presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or may reasonably tend to be, injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the enjoyment of life and property.

Separate paragraphs limiting animal feed plant emissions and grain processing plant emissions were consolidated with the added provision that such emissions are only limited at permanent facilities.

Also included with this set of revision to Chapter 4, was a provision removing the 1978 sulfur dioxide (SO_2) limitation on liquid fuel-burning sources while leaving intact the 1978 SO_2 limit for solid fuel-burning sources. However, EPA intends to take no action on this provision as the IAQC has since adopted additional revisions to Chapter 4 and to this particular subparagraph. These later revisions were submitted simultaneously with revisions which were adopted earlier and are discussed below.

A new Chapter 14, "Rules of Practice," has been adopted. This chapter specifies an organization for the IAQC, its general methods of operation, rules of practice and a description of the various forms used by the DEQ Air Quality Management Division.

The above revisions to Chapters 2, 3, 4 and 14 were adopted by the IAQC on February 12, 1976, and became effective April 26, 1976.

A section of Chapter 14 describing a reporting form provided to owners of vehicles which have been cited for violation has been reworded to specifically make submission of the form voluntary rather than mandatory. This corrects an error in the original printing of Chapter 14. The corrected version became effective June 7, 1976.

Chapter 4 has been revised to increase the SO_2 emission limit for existing solid fuel-burning sources of over 500 million British Thermal Units (BTU) heat input per hour from 6-pounds of SO_2 per million BTU input to 8-pounds per million BTU.

The previous 6-pound limit has been retained in 10 Counties: Black Hawk (Waterloo); Clinton (Clinton); Des Moines (Burlington); Dubuque (Dubuque); Jackson, Lee (Keokuk); Linn (Cedar Rapids); Louisa, Muscatine, and Scott (Davenport). The 6-pound limit is also in effect for new sources under 250 million BTU heat input.

It should be noted that the presently approved SIP emission limit for sulfur dioxide from solid fuel-burning sources is five-pounds per million BTU heat input. The State adopted a six-pound limit, but requested that EPA not take action approving it as part of the SIP pending further revision of the regulations. The regulation being proposed in the notice is intended by the State to supplant both the previous State regulation of six-pounds per million BTU and the federally-approved SIP regulation of five-pounds per million BTU.

Chapter 4 also requires sources subject to NSPS to comply with NSPS.

Once a violation of the SO_2 ambient standards has occurred the director may require all sources within 20 kilometers of the monitoring site where the violation was recorded to meet a six-pound limit rather than the eight-pound limit.

Liquid fuel-burning sources are limited to 2.5 pounds $SO_2/10^6$ BTU except for sources subject to NSPS.

The revisions to Chapter 4 were adopted April 15, 1976, and became effective July 19, 1976.

In addition to the above revisions, the State has made a number of revisions in the codification and internal cross-referencing of the regulations. These are minor changes that do not affect the control strategy in the SIP.

The revisions to the SO_2 limits for fuel-burning sources were submitted by the State under Section 110(a)(3)(B) of the Clean Air Act. This paragraph requires the Administrator to approve or disapprove within three months any proposed plan revisions which relate only to fuel-burning sources and are consistent with the Energy Supply and Environmental Coordination Act and the Clean Air Act.

The proposed revision and an analysis intended to demonstrate attainment and maintenance of National Ambient Air Quality Standards for SO_2 were submitted June 9, 1976. This submittal was incomplete and supplemental material was submitted by the State on August 9, 1976, and August 17, 1976. The complete submission was in the regional office as of August 19, 1976.

All of the above changes constitute a proposed revision to the State of Iowa implementation plan, pursuant to 40 CFR 51.8. This notice is issued to advise the public of the receipt of this proposed change and to request public comment.

The revisions to Chapter 4 which specify different SO_2 limits in different counties have been challenged by the Administrative Rules Review Committee of the Iowa General Assembly. The Committee objects on the grounds that the DEQ acted arbitrarily in adopting these regulations.

Under the Iowa Administrative Procedure Act, the agency which adopted a rule to which an objection has been filed must bear the burden of proof in any action to enforce the rule that such capricious or beyond the authority of the agency with respect to the source that is the subject of the enforcement action. Because of this presumption against the regulations, it appears that they may be unenforceable and unapprovable. EPA is taking steps to ascertain the status of the regulations under State law.

In addition, Regulation 4.3(3) may be unapprovable in that it appears inadequate to maintain ambient air quality standards. The modeling data submitted by the State does not demonstrate maintenance of standards. It appears that subregulation 4.3(3)a(5), which requires a lower emission limit once a violation of ambient standards has occurred, by it nature may not prevent violations and may be unapprovable. The State has been given the opportunity to clarify this situation.

Under Section 110(a)(3)(b) EPA is required to provide an opportunity for a public hearing on the SO_2 regulation revisions. Such a hearing will be held in response to substantial public interest in this matter.

The Administrator's decision to approve or disapprove revisions to a plan is based on whether or not they meet the requirements of Section 110(a)(2)(A) through (H) of the Clean Air Act and 40 CFR Part 51, "Requirements for Preparation, Adoption and Submittal of State Implementation Plans."

All comments should be addressed to Mr. Dewayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. Only comments received by December 6, 1976, will be considered. Copies of the proposed revision to the State of Iowa implementation plan and the supporting documents are available for public inspection at the office of EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108; the Public Information Reference Unit, EPA, 401 M Street, SW., Washington, D.C. 20460; and at the Iowa Department of Environmental Quality, 3920 Delaware Avenue, Des Moines, Iowa 50316.

(42 U.S.C. 1857c-5)

Date: September 23, 1976.

CHARLES V. WRIGHT,
Acting Regional Administrator.

[FR Doc.76-32509 Filed 11-4-76;8:45 am]

[40 CFR Part 52]

[FRL 635-2]

NEW JERSEY

Proposed Revision of State Implementation Plan

Correction

In FR Doc. 31550, appearing at page 47283 in the issue for Thursday, October 28, 1976, the document referenced here was inadvertently placed in the notices section of the FEDERAL REGISTER. It should have been placed in the proposed rules section, and the heading should have read as set forth above.

[40 CFR Part 52]

[FRL 640-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Proposed Change in the Sulfur Content of Fuel Burned in the Massachusetts portion of the Hartford-New Haven Springfield Interstate Air Quality Control Region

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with exceptions the Massachusetts Implementation Plan for the attainment of national ambient air quality standards.

On July 22, 1976 the Massachusetts Secretary of Environmental Conservation submitted a proposed revision pursuant to the recently adopted Chapter 494, Commonwealth of Massachusetts' "An Act Relative to Periodic Review of Ambient Air Quality Standards" to be included in the implementation plan. Chapter 494 of the Acts of 1974 requires the Massachusetts Department of Environmental Quality Engineering (the Department) to review those portions of the State Implementation Plan to determine if any of the regulations are more stringent than necessary to attain and maintain National Ambient Air Quality Standards and are therefore contributing in some degree to the already spiraling costs of energy and other products due to recent increases in the cost of fuels. Such a review has been conducted by the Department for the Pioneer Valley Air Pollution Control District. The Department found that the existing regulation controlling the sulfur content of residual fuel oil in the District could be relaxed for specific large fuel burning sources and still attain and maintain the current Ambient Air Quality Standards for Sulfur Dioxide. Therefore, the Department has submitted to the U.S. Environmental Protection Agency, Region I (EPA) a proposed revision to the Massachusetts State Implementation Plan (SIP) to amend the regulations in the Pioneer Valley Air Pollution Control District so that residual fuel oil burning sources having an energy input capacity of one hundred million (100×10^6) Btu per hour or more as rated by the Department will be permitted to burn fuel oil with a sulfur content of 2.2 percent by weight for a period of two years. The existing regulations only permit the burning of residual fuel oil having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content fuel oil). According to the proposed revision, all sources with a rated energy input capacity less than one hundred million Btu per hour would still be required to burn residual oil with a sulfur content not in excess of 1.0 percent by weight. All present coal users would be permitted to burn coal with a sulfur content not in excess of 1.6 percent by weight and all distillate fuel oil users would continue to burn distillate oil with a sulfur content not in excess of 0.3 percent by weight. The proposed revision requires that each source be reviewed by the Department prior to implementing use of the higher sulfur content fuel in order to insure that ambient air quality standards will not be exceeded. The proposed revision also requires that the use of such fuel by each source must be approved in writing by the Department. As a condition of approval, the Department may require the establishment of a network of continuous ambient air sulfur dioxide monitors to be located (with approval by the Department) in the vicinity of a facility or combination of facilities eligible to burn fuel of the revised higher sulfur content. Exceedance of ambient air quality standards for sulfur dioxide recorded by such monitoring systems would be grounds for requiring an immediate and permanent return to the use of lower sulfur fuel for the sources involved. Approval would also include provisions for emission reduction in the event that unusual adverse meteorological conditions existed or were anticipated. However, EPA's evaluation assumes that all eligible sources use the higher sulfur content fuel under worst case meteorological conditions; for such sources the National Ambient Air Quality Standards will not be violated. All approvals granted will be revocable if there is evidence of noncompliance with any other applicable regulation. This provision allows the Department to abate nuisance conditions when they occur in conjunction with the use of higher sulfur content fuel. The Department would further reserve the right to revoke any approval in instances where standards were exceeded for reasons associated with model underprediction.

The Department has evaluated the impact of relaxing the sulfur content in fuel (Regulation 5) for the Pioneer Valley Air Pollution Control District by an EPA approved computer program, the Air Quality Display Model. This model required extensive air quality data and a reliable emission inventory. The emission inventory in the District was prepared for the base year 1972. The Department's evaluation indicates that there are 29 sources which are in the size category eligible to burn the higher sulfur fuel. Of these 29 sources, 21 have been evaluated and the results indicate that no violations of the National Ambient Air Quality Standards will occur. The 21 sources which EPA proposes to approve are:

1. Amherst College, Amherst
2. Belchertown State School, Belchertown
3. Brown Company, Holyoke
4. Erving Paper Mills, Erving
5. Holyoke Gas & Electric Company, Holyoke
6. The Kendall Company, Colrain
7. Massachusetts Mutual Life Insurance Company, Springfield
8. Monsanto Polymer & Petrochemical Company (Bldg. 21), Springfield
9. Northampton State Hospital, Northampton
10. Scott Graphics, South Hadley
11. Smith College, Northampton
12. Springfield Technical Community College, Springfield
13. Stanley Home Products, Easthampton
14. Stevens Elastomeric Company, Easthampton
15. Uniroyal Inc., Chicopee
16. University of Massachusetts, Amherst
17. University of Massachusetts (Tillson Farm), Amherst
18. Ware Industries, Ware
19. Westfield State College, Westfield
20. Westover AFB (Bldg. 1411), Chicopee
21. Mount Holyoke College, South Hadley

There are 8 sources which EPA has not yet evaluated sufficiently to determine whether they may be approved or disapproved. We are soliciting public comment and technical information on the following 8 sources so as to assist us in making a final determination of approvability:

1. Monsanto Polymer and Petrochemical Company, Building 49, Springfield (large maximum SO_2 emission and stub stacks).

2. West Springfield Generating Station, Western Massachusetts Electric, West Springfield (primary daily SO_2 standards violations predicted by previous studies).

3. Mount Tom Generating Station, Holyoke Water Power, Holyoke (primary SO_2 standards violations predicted by previous studies).

4. Riverside Generating Station, Holyoke Water Power, Holyoke (primary SO_2 standards violations predicted by previous studies).

5. Westover Air Base, Building 7102, Chicopee (24 hour primary SO_2 standards violations predicted by State).

6. Deerfield Specialty Paper, Monroe, (annual and daily primary SO_2 standards violations predicted by the Valley Model).

7. Westfield River Paper Company, Russell (daily primary SO_2 standards violations predicted by the Valley Model).

8. Strathmore Paper, Russell (daily primary SO_2 standards violations predicted by the Valley Model).

The State evaluation of the impact of the revision indicated that an increase in residual fuel oil sulfur content may cause an increase in particulate (TSP) emissions of approximately 0.2 ug/m^3. Such an increase in ambient particulate levels is not considered to be significant. Furthermore, the Department is proposing to require particulate stack testing of all sources authorized to burn higher sul-

fur fuel. Such a requirement will monitor any increases in ambient particulate concentration so that appropriate changes or controls can be effected.

The Department's evaluation of the peak short-term impact of sources allowed to burn the higher sulfur fuel shows that the potential exists to increase SO_2 concentrations in excess of secondary standards. So far, no violations of the secondary standards have been recorded in the Pioneer Valley Air Pollution Control District. If the revision is approved, the Department intends to monitor any increases in SO_2 and to take all necessary actions to assure that Ambient Air Quality Standards for SO_2 and TSP are monitored.

Copies of the Massachusetts submission are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 2113, Boston, Massachusetts 02203; Department of Environmental Quality Engineering, Bureau of Air Quality Control, Room 320, 600 Washington Street, Boston, Massachusetts 02111; and the Freedom of Information Center, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The Regional Administrator hereby issues this notice setting forth the Massachusetts revision as proposed rulemaking and advises the public that interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the address below. Relevant comments received by December 5, 1976 will be considered and acknowledged. Comments received will be available for public inspection during normal working hours at the Region I office. All comments should be addressed to: Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of sections 110(a)(2)(A)–(H) and 110(a)(3) of the Clean Air Act and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c–(5)(a) and 1857(g). The Administrator is therefore proposing to amend 40 CFR Part 52 in the manner set forth below.

Dated: October 29, 1976.

JOHN A. S. MCGLENNON,
Regional Administrator (Region I).

§ 52.1120 [Amended]

In Subpart W—Massachusetts § 52.1120 paragraph (c) is amended by inserting the phrase, "On July 22, 1976, the Secretary of Environmental Affairs submitted a revision to Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Pioneer Valley Air Pollution Control District" (except as provided in § 52.1126(b)) in proper chronological order. § 52.1126 is amended by adding paragraph (b) as follows:

§ 52.1126 Control strategy: Sulfur oxides.

* * * * *

(b) Massachusetts Regulation 5.1 for the Pioneer Valley Air Pollution Control District is approved except as to the following sources which remain subject to the previously approved requirements of Regulation 5 which stipulate that sources are permitted to burn residual fuel oil having a sulfur content not in excess of 0.55 lb. per million Btu heat release potential (approximately equivalent to 1 percent sulfur content):

(named sources to be determined before final approval)

[FR Doc.76-32647 Filed 11-4-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

[42 CFR Part 84]

GAS DETECTOR TUBES

Proposed Classification and Labeling Requirements

On May 8, 1973, the Department adopted regulations (38 FR 11458) setting forth the requirements and procedures of the National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, for the evaluation and certification of gas detector tube units—instruments to detect the presence and concentrations of gases in occupational environments. In the course of evaluating detector tubes in this program, NIOSH has concluded that tube users will be better served by the establishment of the following two classes of gas detector tubes: (1) Specific tubes—those used to measure a specific gas with an accurancy substantially unaffected by the presence of other chemical substances (interferents), and (2) nonspecific tubes—those which are calibrated for one or more particular contaminants and with an accuracy that is affected by interferents.

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 84 of Title 42, Code of Federal Regulations, by differentiating between specific and nonspecific gas detector tubes and imposing appropriate labeling requirements for such tubes. For example, a nonspecific tube would be labeled "hydrocarbon tube calibrated for benzene" and a specific tube would be labeled "benzene tube." It is not desirable to eliminate the nonspecific tubes provided they are properly labeled because they are satisfactory in many cases and, in some instances, may be the best method of detecting a compound. To provide manufacturers of gas detector tubes the opportunity to effectuate the labeling changes for units for which they hold certificates, it is proposed to make the amendments effective 90 days after republication in the FEDERAL REGISTER.

It is also proposed to revise § 84.3 to provide that applications for certification of detector tubes for specific gases previously announced in accordance with § 84.3(a) will now be accepted at any time. Future notices may be published in the FEDERAL REGISTER indicating dates during which applications will be accepted for certification of tubes intended to measure particular gases not previously announced. During the periods indicated in these notices, the tubes that measure the gases listed in the notice will have priority over other tubes in testing for certification.

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed amendments to Ms. Mary L. Hough, Regulations Assistant, National Institute for Occupational Safety and Health, Room 3–32, Park Building, 5600 Fishers Lane, Rockwille, MD 20852 (Phone: (301) 443–6268). Comments received on or before December 20, 1976 will be considered in the preparation of final regulations and will be available for public inspection during normal business hours at the foregoing address.

This proposal has been reviewed for compliance with Department regulatory policies issued July 25, 1976, and published at 41 FR 34811. It has been determined that the proposed changes are (1) basically technical in nature, (2) not of major program significance, (3) not expected to be controversial, and (4) not a major policy issue. For these reasons, the proposal is being issued without the use of an implementation plan or Notice of Intent which would otherwise be required by the new policies. The normal notice of proposed rulemaking procedure is expected to provide adequate public participation in the rulemaking process. Therefore, it is proposed to adopt the amendments set forth below, effective 90 days after their republication in the FEDERAL REGISTER.

It is hereby certified that this proposal has been screened pursuant to Executive Order No. 11821 and does not require an Inflation Impact Evaluation.

Date: October 8, 1976.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: November 1, 1976.

MAJORIE LYNCH,
Acting Secretary.

Part 84 of Title 42, Code of Federal Regulations is amended as follows:

1. Section 84.2 is amended by adding new paragraphs (k), (l), (m), and (n) to read as follows:

§ 84.2 Definitions.

* * * * *

(k) "Interferent" means a chemical substance which affects the measurement of gas concentrations over the working range of the tube.

(l) "Major interferent" means a chemical substance which changes the indication of the tube by greater than +10% or −5%.

(m) "Specific tube" means a gas detector tube which has no major interferents.

(n) "Nonspecific tube" means a gas detector tube which is calibrated for one or more particular contaminants and has major interferents.

2. In §84.3, paragraph (a), (h)(1), and (i)(1) are amended to read as follows:

§ 84.3 Applications; tube units; components.

(a) Applications may be filed at any time for certification of tubes intended to measure specific gases for which notices have been published previously in the FEDERAL REGISTER. From time to time, the Institute may publish a notice in the FEDERAL REGISTER specifying the dates during which applications will be accepted for the testing and certification of tube units and components thereof which are intended to measure specific gases. This notice shall also list the test standard adopted by the Institute for each gas. During the dates specified in the notice, the tubes that measure the gases listed in the notice will have priority over other tubes in testing for certification.

* * * * *

(h) * * *

(1) Drawings, specifications, and descriptions adequate in detail to identify the design, dimensions, and materials of the detector tube, aspirating pump, and other components with an index to such drawings, specifications, and descriptions indicating the latest revisions.

(i) * * *

(1) Drawings, specifications, and descriptions adequate in detail to identify the design, dimensions, and materials of the component part and its function in the tube unit with an index of such drawings, specifications, and descriptions indicating the latest revisions.

3. In § 84.6, paragraph (d)(4) is revised and paragraphs (c)(4), (d)(6), and (d)(7) are added. The added and revised provisions read as follows:

§ 84.6 Required information.

* * * * *

(c) * * *

(4) For specific tubes, the contaminant(s) for which the unit has been certified. For nonspecific tubes, the contaminant(s) for which the unit has been certified together with the general group of contaminants which the tube will detect. For example: "Hydrocarbon tubes calibrated for benzene" or "Benzene tube which can also indicate other hydrocarbons".

* * * * *

(d) * * *

(4) Limitations of the tube unit in obtaining accurate concentration measurements including a list of known interferents and the amount of each which may be tolerated without affecting the measurement of toxic gas concentrations over the working range of the tube. In the case of a nonspecific tube, representative samples of the general class will also be included.

* * * * *

(6) The range and accuracy levels at which NIOSH tests the unit.

(7) The heading for the literature will be the contaminants for which the unit has been certified or the general group of detected contaminants as specified in § 84.6(c)(4).

4. In § 84.20, a new paragraph (g) is added to read as follows:

§ 84.20 General.

* * * * *

(g) The Institute will, as it considers necessary, test the effect of interferents on the unit. Improper or insufficient listing of interferents pursuant to § 84.6(d)(4) or incorrect labeling of a tube pursuant to § 84.6(c)(4) will result in the issuance of a notice that all requirements for certification have not been met. All interferents will be introduced at their exposure limits as listed in 29 CFR Part 1910.

[FR Doc.76-32554 Filed 11-4-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3500, 9230]

FEDERALLY-OWNED COAL DEPOSITS

Exploration Licenses

• The purpose of this notice of proposed rulemaking is to provide procedures for exploring Federally-owned coal deposits subject to lease pursuant to 43 CFR Part 3500. •

On August 4, 1976, Congress enacted the "Federal Coal Leasing Amendments Act of 1975" (Pub. L. 94-377; 90 Stat. 1039). Section 4 of that statute modified section 2(b) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 201(b)) to provide for the issuance of exploration licenses for federally-owned coal. This proposal sets forth application and bonding requirements for applicants and licensees, and delineates the responsibility for issuing and supervising the licenses.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. An environmental analysis will be prepared on individual actions or groups of related actions, and, where significant impacts on the quality of the human environment are identified, a statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 will be prepared.

In accordance with the Department's policy on public participation in rulemaking (36 FR 3336) interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until December 20, 1976.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Division of Legislation and Regulatory Management, Room 5555, Interior Building, Washington, D.C. during regular business hours (7:45 a.m.-4:15 p.m.).

On the basis of the foregoing, it is proposed that:

1. 43 CFR Part 3500 be amended by adding a new Subpart 3507 to read as follows:

Subpart 3507—Coal Exploration Licenses

Sec.

Subpart 3507—Coal Exploration Licenses

§ 3507.0-1 Purpose.

This subpart provides for the issuance of licenses for exploring federally-owned coal deposits subject to disposal pursuant to this Part 3500, regardless of surface ownership.

§ 3507.0-2 Objective.

The objective of this subpart is to allow private parties to explore federally-owned coal deposits in order to obtain geological, environmental, and other pertinent data concerning the deposits and the lands in which they lie.

§ 3507.0-3 Authority.

The authority for this subpart is found in section 2(b) of the Mineral Leasing Act of February 25, 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1975, 90 Stat. 1083, 1085, 30 U.S.C. 201(b).

§ 3507.0-4 Responsibilities.

(a) The Bureau of Land Management (BLM) exercises at the Bureau level the Secretary's discretionary authority to determine whether exploration licenses are to be issued, and is responsible for issuing and cancelling exploration licenses and terminating the period of liability of bonds. The regulations in this Subpart shall be administered by the Director through the State Director and the authorized officer, subject to the supervisory authority of the Secretary. The proper BLM office is also the office of record.

(b) The Geological Survey exercises the Secretary's authority regarding operations conducted within the area of operations by the licensee, and is responsible for all geological, economic, and en-

gineering determinations for the Department's coal leasing program.

(c) The authorized officer in consultation with the Geological Survey, and where appropriate, the surface management agency and the surface owner if other than the United States, formulates the requirements to be incorporated in exploration licenses for the protection of the surface resources, for reclamation, using as guidelines the surface operating and reclamation performance standards in Subpart 3041 of this chapter and 30 CFR Part 211, and for the bonding requirements.

(d) The Geological Survey, after consultation with the authorized officer, or where appropriate, the surface management agency and the surface owner, if other than the United States, reviews and concurs in exploration plans and recommends termination of the period liability of the bond upon the completion of exploration operations.

§ 3507.0–5 Definitions.

(a) "Coal deposit" means all federally-owned deposits which are subject to disposal under applicable law, except those held in trust for Indians.

(b) "Exploration" means drilling, excavating, and geophysical or geochemical surveying operations designed to obtain detailed data on the physical and chemical characteristics of coal deposits and their environment.

(c) "Surface management agency" means the Federal ageny or authorized officer thereof other than the Bureau of Land Management having jurisdiction over the surface of lands containing coal deposits subject to this part.

(d) "Exploration plan" means a detailed plan submitted to the Mining Supervisor, after consultation with the authorized officer or other surface management agency, for approval before exploration operations commence showing the location and type of exploration work to be conducted, environmental protection procedures, present and proposed roads, as well as reclamation and abandonment procedures to be followed upon completion of such operations.

(e) "Exploration license" means a license issued by the authorized officer to permit the exploration of federally-owned coal deposits under terms and conditions that will protect the surface and subsurface resources and the environment, and provide for the reclamation of any damage caused by such exploration.

(f) "Privileged resource data" means geological data, mineralogical data, geophysical data, geochemical data, and economic data including maps, that may be used to calculate reserves in place, and production costs, trade secrets, and commercial or financial information obtained from any licensee under this subpart and identified as confidential and privileged resource data.

(g) "Coal exploration for commercial purposes" means exploration conducted in order to acquire information concerning the environmental, physical, and chemical characteristics of the coal deposit, the strata above the deposit, the hydrologic conditions associated with the deposit, and any other information that may be necessary to prepare a complete resource evaluation of the land.

(h) "Participate" means to have or take part or share with others in an exploration license.

(i) "Participant" means a person who participates or shares in an exploration license.

(j) "Reasonable amount of coal for analysis and study" means only that amount of coal necessary to establish whether or not a federally owned deposit can be economically extracted and the removal of which does not cause substantial disturbance to the natural land surface.

(k) "Substantial disturbance to the natural land surface" means disturbance of the surface other than that necessary for the mere location of potential coal deposits and for the access to those deposits necessary to determine their location and quality by activities such as surface sampling or drilling geologic study and exploration holes. These operations shall extend only to the degree and extent necessary to determine the nature of the overlying strata and the depth, thickness, shape, grade, and quality of the coal deposit.

§ 3507.1 Lands subject to exploration license.

(a) Exploration licenses may be issued for:

(1) Lands administered by the Secretary subject to coal leasing;

(2) National forest lands or other lands administered by the Secretary of Agriculture through the Forest Service subject to coal leasing;

(3) Coal deposits in lands which have been conveyed by the United States subject to a reservation to the United States or mineral deposits, to the extent that those deposits are subject to lease pursuant to this Part 3500; and

(4) Coal or lignite deposits in acquired lands set apart for military or naval purposes.

(b) No exploration license will be issued for any land on which a coal lease has been issued.

§ 3507.2 Prelicensing procedures.

§ 3507.2–1 Environmental review.

Before the issuance of an exploration license:

(a) The authorized officer or, where the surface is not administered by BLM, the surface management agency shall, using the exploration plan submitted by the applicant, make an environmental analysis and technical examination of the potenial effect of such exploration on the resources of the area and its environment, including fish and other aquatic resources, wildlife habitats and populations, visual resources, recreation, cultural, and other resources in the affected area. The applicant shall not begin exploration until an environmental analysis is accomplished and the exploration plan has been approved.

(b) If the authorized officer or, where the surface is not administered by BLM, the surface management agency determines that an environmental impact statement is required by the National Environmental Policy Act of 1969 (43 U.S.C. 4321–4327), he will take necessary steps to prepare such a statement.

§ 3507.2–2 Cultural resources.

If lands in the National Register or nominated for inclusion in the National Register contain cultural resources which might be affected by the issuance of an exploration license, no such license will be authorized until there has been compliance with Section 106 of the Historic Preservation Act (80 Stat. 917; 16 U.S.C. 470f) and Section 2(b) of E.O. 11593 of May 13, 1971, (36 FR 8921 (16 U.S.C. 470 fn)).

§ 3507.2–3 Threatened or endangered species.

The authorized officer shall not issue an exploration license if he determines pursuant to the Act of December 28, 1973 (87 Stat. 884, 16 U.S.C. 1531–1543) that the existence of any threatened or endangered species of fauna or flora will be jeopardized and that critical habitat would be destroyed or adversely modified to a significant degree by the exploration activities authorized by that license. In making this determination, the authorized officer shall consult the surface management agency, if the surface is not managed by BLM.

§ 3507.2–4 Other surface management agency.

The authorized officer shall issue an exploration license covering lands the surface of which is under the jurisdiction of any Federal agency other than the Bureau of Land Management only upon such conditions as the surface management agency may prescribe with respect to the use and protection of the nonmineral interests in those lands.

§ 3507.3 Licenses.

§ 3507.3–1 Applications for license.

(a) *Applications.* Exploration license applications shall be subject to the following requirements:

(1) No specified form of application is required.

(2) Each application shall identify the tract or tracts to be explored described by legal description (or, if unavailable, by metes and bounds).

(3) Each application shall contain an exploration plan which complies with the requirements of 30 CFR 211.10.

(4) Each application with supporting documents shall be filed in the proper BLM Office, together with a nonrefundable $250 license fee.

(5) A separate application shall be filed for exploration in each State.

(b) *Qualified persons.* Any person qualified to hold leases or contracts issued pursuant to this Part 3500 may apply for an exploration license.

(c) *Call for applications.* Nothing in this subpart shall preclude the authorized officer from issuing a call for an expression of interest in exploration licenses for a given area.

(d) *Participation.* Applicants for licenses shall be required, after approval of the plan and prior to issuance, to afford other parties an opportunity, on a pro rata cost sharing basis, to participate in the approved exploration plan. Upon notice that a license will be issued to him an applicant must publish a "Notice of Invitation," approved by the authorized officer, once every week for four consecutive weeks in at least one newspaper of general circulation in the area where the lands covered by the license application are situated. This notice must contain an invitation to the public to participate in the proposed exploration program. Copies of published Notices of Invitation must be filed with the authorized officer upon each publication for posting in the proper BLM Office. Any person who elects to participate in the exploration programs shall notify in writing the authorized officer and the applicant. Upon the applicant's compliance with the requirements of this section, all else being regular, the authorized officer may issue the exploration license.

§ 3507.3–2 Issuance and termination of license.

(a) *General.* The issuance of exploration licenses under this Subpart is discretionary with the authorized officer. Issuance of an exploration license does not obligate the Government to issue a lease or contract on lands covered by the license.

(b) *Duration.* Exploration licenses may be issued for not more than two years, including the time for clean up and restoration. The authorized officer shall designate the date on which operations may begin.

(c) *Relinquishments.* A licensee may, subject to his own and his surety's continued obligation to comply with the terms and conditions and special stipulations of the license, the plan, and the regulations, relinquish an exploration license for all or any portion of the lands embraced in it. A relinquishment must be filed in the proper BLM Office.

(d) *Revocation.* An exploration license may be revoked for noncompliance with the terms of the license, the plan, or the regulations, after the licensee has been given a notice of violation and the licensee has failed to correct the violations within the period prescribed in the notice.

(e) *Exploration Plan.* The approved exploration plan will be dated, attached, and made a part of each license issued.

(f) *Modifications.* When unforeseen conditions that could result in signficant disturbance or damage are encountered or when geologic or other physical conditions warrant a modification in the approved exploration plan, (1) the authorized officer, after consultation with the Mining Supervisor and, where appropriate, the surface management agency, may adjust the terms and conditions of the license or, (2) the Mining Supervisor, after consultation with the authorized officer, and where appropriate, the surface management agency, may approve changes in the exploration plan.

(g) *Different States.* A separate exploration license is required for exploration in each State.

(h) *Extensions.* Exploration licenses may not be extended. Exploration operations may not be conducted after a license has expired. The licensee may apply for a new license as described in § 3507.3–1. A new license may be issued simultaneously with the termination of the existing license.

§ 3507.3–3 Rights under licenses.

(a) The issuance of an exploration license shall convey no rights except the right to perform exploration operations in accordance with the specific terms and conditions of the license, the approved plan, and the regulations.

(b) The issuance of exploration licenses shall not preclude the issuance of coal leases at such time and places and to such persons as are deemed appropriate, subject to applicable regulations, and, if a coal lease is issued for lands embraced in an exploration license, those lands shall be eliminated from the license upon the effective date of the lease.

(c) A licensee may not remove for sale any coal from the deposits subject to his license, but he may remove a reasonable amount of coal for analysis and study.

§ 3507.3–4 Operating regulations.

The licensee shall comply with all regulations of the Secretary of the Interior, including the provisions of the operating regulations of the Geological Survey (30 CFR Part 211). Copies of the operating regulations may be obtained from the Mining Supervisor. The licensee shall allow inspection of the premises and operations by duly authorized representatives of the Secretary and, where appropriate, any surface management agency, and shall provide for the free ingress and egress of Government officers and persons using the lands under authority of the United States.

§ 3507.3–5 Surface protection and reclamation.

(a) The authorized officer shall include in each exploration license requirements and stipulations to protect the environment and other resources and to ensure reclamation of the land disturbed by exploration.

(b) A licensee may not cause substantial disturbance to the natural land surface.

§ 3507.3–6 Ground water data.

The applicant may be required to collect and report ground water data to the authorized officer.

§ 3507.3–7 Bonds.

(a) The provisions of the regulations in Subpart 3504 of this part are hereby made applicable to these regulations. The holding of an adequate compliance bond will be a condition of the exploration license.

(b) Prior to issuing an exploration license the authorized officer after consultation with the Mining Supervisor and, where appropriate, the surface management agency, and where appropriate, the surface owner, shall ensure that the amount of the compliance bond or bonds to be furnished is sufficient to ensure compliance with the terms and conditions of the license and regulations, but in no event shall the amount of such bond be less than $5,000.

(c) Upon completion of an exploration and reclamation program which is in compliance with the terms and conditions of the exploration license, the approved plan, and the regulations, or upon discontinuance of exploration operations and completion of such reclamation as may be needed to the satisfaction of the authorized officer and, where appropriate, the surface management agency, the authorized officer will terminate the period of liability of the compliance bond. Where the surface of the land being explored is in private ownership, the authorized officer shall not terminate the period of liability under the compliance bond until he has received written acknowledgement from the surface owner of his satisfaction with the reclamation of the surface. In the event the licensee and surface owners are unable to reach agreement on the adequacy of the licensee's reclamation effect, the authorized officer shall make the final determination. He will terminate the period of liability under the compliance bond after determining that the terms and conditions and special stipulations of the license, the approved plan, and the regulations have been met.

§ 3507.4 Use of data.

All resource and environmental data obtained by the licensee in compliance with the terms and conditions of the license, the plan, or the regulations shall be submitted to the Mining Supervisor. The licensee shall submit such data and, where appropriate, the standards under which the data were gathered, at such time and in such form as required by the Mining Supervisor, the authorized officer, or surface management agency, or as specified in this Subpart the license, or the plan. Privileged resource data which is submitted to the Mining Supervisor by the licensee shall be treated as confidential proprietary information until the licensed lands are leased or until the Mining Supervisor determines that making the data available to the public would not damage the competitive position of the licensee, whichever is sooner. In no case shall the information be treated as confidential for more than five years.

§ 3507.5 Use of surface.

(a) A licensee shall be entitled to use for exploration purposes only so much of the surface of the licensed lands as is authorized in the approved exploration plan.

(b) Operations under these regulations shall not unreasonably interfere with or endanger operations under any other au-

thorized use pursuant to the provisions of any other Act.

(c) The licensee shall comply with all applicable State and local regulations and standards as prescribed by the authorized officer and, where appropriate, surface managing agency, including the regulations in Parts 23, 3041, 3500, 3600 of this chapter and 30 CFR Parts 211 and 231.

(d) Any person who willfully conducts coal exploration for commercial purposes on lands subject to this subpart without an exploration license shall be subject to to the provisions of § 9239.5–3(f) of this chapter.

2. Paragraph (b)(3) of 43 CFR 9239.0–3 be amended to read as follows:

§ 9239.0–3 Authority.

* * * * *

(b) * * *

(3) *Coal trespass.* 18 U.S.C. 1851; 30 U.S.C. 201(b)(4).

3. 43 CFR 9239.5–3 be amended by adding a new paragraph (f) to read as follows:

§ 9239.5–3 Coal.

* * * * *

(f) *Penalties for unauthorized exploration for coal.* (1) Any person who willfully conducts coal exploration for commercial purposes without an exploration license issued under Subpart 3507 of this chapter shall be subject to a fine of not more than $1,000 for each day of violation.

(2) All data collected by said person on any Federal lands as a result of such violations shall immediately be made available to the Secretary, who shall make the data available to the public as soon as possible.

(3) No penalty under this section may be assessed unless such person is given notice and opportunity for a hearing with respect to such violation pursuant to Part 4 of this chapter.

Dated: November 2, 1976.

W. W. Lyons,
Deputy Under Secretary.

[FR Doc.76–32606 Filed 11–4–76;8:45 am]

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Grizzly Bear

The Director, United States Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a proposed rulemaking which would determine Critical Habitat for the Grizzly Bear (*Ursus arctos horribilis*) in the 48 conterminous States of the United States. This proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, 87 Stat. 884; hereinafter the Act).

Background

In the Federal Register of July 28, 1975, (40 FR 31734–31736) the Director issued a final rulemaking determining the Grizzly Bear in the 48 conterminous States of the United States to be a Threatened species, pursuant to the Act. This rulemaking stated that one of the major reasons for the Threatened status of this bear was the following factor given in Section 4(a) of the Act: "the present or threatened destruction, modification, or curtailment of its habitat or range."

Shortly after the Grizzly Bear in the 48 conterminous States was listed as Threatened, the Service began to assemble data that could be utilized as the basis for a proposed determination of Critical Habitat. On April 21–22, 1976, a major meeting on this subject was held in Missoula, Montana. Approximately 50 persons attended this meeting, including representatives of the Fish and Wildlife Service, National Park Service, Bureau of Land Management, Forest Service, private conservation organizations, universities, and the Idaho, Montana, and Washington Fish and Game Departments.

On the basis of the information presented at the meeting, and obtained from other sources, the Service is proposing that the areas delineated below be determined as Critical Habitat. These areas are described below State by State, but they actually merge to form four zones which are located in (1) the region where Wyoming, Montana, and Idaho come together, in Yellowstone National Park and adjacent areas, including parts of Custer, Shoshone, Teton, Beaverhead, and Gallatin National forests, and part of Grand Teton National Park; (2) northwestern Montana, in Glacier National Park, the Bob Marshall Wildenress Area, most of the Flathead National Forest, and adjacent areas, including parts of the Lewis and Clark, Helena, and Lolo National forests, and small parts of the Blackfeet and Flathead Indian reservations; (3) extreme northwestern Montana and northern Idaho, in the Cabinet Mountains, mostly in the Kootanai, Kaniksu, and Lolo National Forests; and (4) extreme northern Idaho and northeastern Washington, mostly in the Kaniksu National Forest.

These areas coincide approximately with the present regular distribution of the Grizzly Bear in the 48 conterminous States, and are the only remnants of the original range of the species which once covered a region approximately 50 times as great, from Canada to Mexico, and from the Great Plains to the Pacific. These areas contain the only significant Grizzly population south of Canada, and, insofar as is known, provide all biological, physical, and behavioral requirements of those populations. Among the important characteristics of these areas is their relative inaccessibility and lack of the kinds of human developments and activities that tend to result in conflicts between the bears and man. This degree of isolation and freedom from excessive human presence seems critical to the survival of the Grizzly. It is true that there are many natural or man-made sites scattered over these areas that are seldom or never utilized by the Grizzly Bear. It would not be possible, however, to attempt to identify all of these sites and exclude them from the overall designation.

It is emphasized that the areas delineated below may not necessarily include all of the potential Critical Habitat of the Grizzly Bear in the 48 conterminous States, and modifications may be proposed in the near future. At the present, the Service and other governmental agencies are studying particular areas which have the potential of being determined as Critical Habitat for the Grizzly. These areas include:

(1) A block of the Kootenai National Forest at the extreme northwestern corner of Montana;

(2) Several relatively small segments of land adjoining or near the presently proposed Critical Habitat in northwestern Montana, including portions of the Blackfeet and Flathead Indian reservations, and portions of the Helena and Lolo National forests;

(3) A section of land along the Continental Divide in west-central Montana, at the junction of the Deerlodge, Bitterroot, and Beaverhead National forests;

(4) Several relatively small segments of land adjacent to the presently proposed Critical Habitat in the Yellowstone region, including portions of the Gallatin, Custer, and Shoshone National forests;

(5) A section of land in the Bridger and Shoshone National forests to the west of the Wind River Indian Reservation; and

(6) Parts of the Selway-Bitterroot area in east-central Idaho and western Montana.

Effects of the Rulemaking

The effects of this determination are involved primarily with Section 7 of the Act, which states:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting

Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and is essentially an official notification to Federal agencies that Section 7 of the Act applies to their activities within that area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitat of the Grizzly Bear. The Director therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

Notice of Public Hearing

The Service is interested in obtaining as wide and comprehensive public participation as possible on the delineation of Critical Habitat for the Grizzly Bear. Therefore, the Service hereby announces that public hearings will be held on this proposed rulemaking at the dates and locations set forth below.

Views and opinions of any person, presented either orally or in writing, are hereby solicited on this proposal. If there are questions concerning these public hearings, the appropriate person listed below under "contact" should be consulted.

Dates, locations, and contact person for public hearings

Date and time	Location	Contact
Nov. 8, 1976, 1 p.m. to 4 p.m., 7 p.m. to 9 p.m.		John Davis, Region 6, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Phone (303) 234-4600.
Nov. 10, 1976, 1 p.m. to 4 p.m., 7 p.m. to 9 p.m.		Do.
Nov. 12, 1976, 1 p.m. to 4 p.m. 7 p.m. to 9 p.m.		Philip A. Lehenbauer, Region 1, U.S. Fish and Wildlife Service, P.O. Box 3737, Portland, Oreg. 97208. Phone (503) 429-4041.
Nov. 17, 1976, 9 a.m. to 4 p.m.		Robert Jacobsen, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Phone (202) 343-5687.

Submittal of Written Comments

In addition to oral or written comments presented in person at the public hearings, individuals may forward written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, PO Box 19183, Washington, D.C. 20036. All relevant comments received no later than February 9, 1977, will be considered and incorporated into the records of the hearings. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, NW., Washington, D.C.

Dated: November 2, 1976.

Lynn A. Greenwalt,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend 50 CFR Part 17 by determining that the following areas are Critical Habitat for the Grizzly Bear.

1. Amend Subpart F, 50 CFR Part 17, by adding the following new § 17.60b

Subpart F—Critical Habitat

Sec.

* * * * *

17.60b Grizzly Bear

Subpart F—Critical Habitat

§ 17.60b Grizzly Bear.

The following areas (exclusive of those man-made structures or settlements which are not necessary to the normal needs or survival of the species) are Critical Habitat for the Grizzly Bear (*Ursus arctos horribilis*) in the 48 conterminous States of the United States.

Montana. (i) An area of land, water, and airspace, with the following boundary (Principal Meridian): Beginning at the northeastern corner of Glacier National Park; then southerly along the eastern boundary of said park to State Highway 17; thence southeasterly along State Highway 17, U.S. Highway 89, and State Highway 49 to the town of East Glacier Park; thence southeasterly along the secondary road through Heart Butte and Bynum Reservoir to the east line of R7W; thence southerly along the east line of R7W to the south line of T24N; thence westerly along the south line of T24N; to the west line of R7W; thence southerly along the west line of R7W to the south line of T21N; thence easterly along the south line of T21N to the east line of R7W; thence southerly along the east line of R7W to State Highway 434; thence southerly along State Highway 434 to State Highway 20; thence southerly along State Highway 20 to the south line of T15N; thence westerly along the south line of T15N to the boundary of the Helena National Forest; thence westerly along said boundary to the boundary of the Lolo National Forest; thence northwesterly along the south boundary of the Lolo National Forest to the south line of T17N; thence westerly along the south line of T17N to 114° W longitude; thence northerly along 114° W longitude to the north line of T22N; thence easterly along the north line of T22N to the western boundary of the Flathead National Forest; thence northerly along said boundary to the west line of R18W; thence northerly along the west line of R18W to the boundary of the Flathead National Forest; thence northwesterly along said boundary to the 8th Standard Parallel; thence westerly along said parallel to U.S. Highway 93; thence northwesterly along U.S. Highway 93 to the U.S.-Canada border; thence easterly along said border to the point of beginning.

(ii) An area of land, water, and airspace, with the following boundary (Principal Meridian): Beginning at the point where the Great Northern Railroad line intersects the Montana-Idaho border near the town of Yakt; thence easterly along said railroad line to the west line of R31W; thence southerly along the west line of R31W to the south line of T29N; thence easterly along the south line of T29N to the west line of R30W; thence southerly along the west line of R30W to the south line of T27N; thence easterly along the south line of T27N to the west line of R29W; then southerly along the west line of R29W to the south line of T25N; thence easterly along the south line of T25N to the west line of R27W; thence southerly along the west line of R27W to the north line of T22N; thence southeasterly along the boundary of the Lolo National Forest to the south line of T22N; thence westerly along the south line of T22N to the western boundary of the Lolo National Forest; thence northwesterly along said boundary to State Highway 200; thence northwesterly along State Highway 200 to the Montana-Idaho border; thence northerly along said border to the point of beginning.

(iii) An area of land, water, and airspace, with the following boundary (Principal Meridian): Beginning at the point common to the borders of Montana, Wyoming, and Idaho; thence northwesterly along the Montana-Idaho border to the western boundary

of the Gallatin National Forest; thence northerly along said boundary to the western boundary of the Beaverhead National Forest; thence northerly along the western boundary of the Beaverhead National Forest to the north line of T7S; thence easterly along the north line of T7S to U.S. Highway 191; thence northeasterly along U.S. Highway 191 to Swan Creek; thence easterly along Swan Creek to the headwaters of Swan Creek; thence southeasterly in a straight line to the southeast corner of T5S R6E; thence easterly in a straight line to Arrow Peak; thence northeasterly in a straight line to the northwest corner of T4S R15E; thence southerly along the Stillwater-Sweet Grass county line to the boundary between Gallatin and Custer National Forests; thence southeasterly along said Forest boundary to the Montana-Wyoming border; thence westerly and southerly along said border to the point of beginning.

Wyoming. An area of land, water, and airspace with the following boundary (6th Principal Meridian): Beginning at the northwestern corner of Wyoming; thence easterly along the Wyoming-Montana border to the eastern boundary of the Shoshone National Forest; thence southerly along said boundary to the point where said boundary intersects the 13th Guide Meridian in Sec. 36, T50N R105W; thence southerly along the 13th Guide Meridian to the 11th Standard Parallel North; thence westerly along said parallel to the west line of R106W; thence southerly along the west line of R106W to the south line of T44N; thence westerly along the south line of T44N to the west line of R109W; thence southerly along the west line of R109W to the north line of T41N; thence easterly along the north line of T41N to the east line of R109W; thence southerly along the east line of R109W to the south line of T41N; thence westerly along the south line of T41N to the east line of R111W; thence southerly along the east line of R111W to the south line of T40N; thence westerly along the south line of T40N to the west line of R113W; thence northerly along the west line of R113W to the northwest corner of T40N R113W; thence northwesterly in a straight line to the southwest corner of T43N R114W; thence northerly along the west line of R114W to U.S. Highway 89; thence northerly along U.S. Highway 89 to the south line of T46N; thence westerly along the south line of T46N to the Wyoming-Idaho border; thence northerly along said border to the point of beginning.

Idaho. (i) An area of land, water and airspace, with the following boundary (Boise Meridian): Beginning at the point where State Highway 287 crosses the Idaho-Montana border; thence easterly along said border to the Idaho-Wyoming border; thence southerly along the Idaho-Wyoming border to Bitch Creek; thence westerly along said creek to the boundary of the Targhee National Forest; thence northwesterly along said boundary to the Union Pacific Railroad line; thence northerly along said line to State Highway 84; thence westerly along State Highway 84 to U.S. Highway 191; thence northerly along U.S. Highway 191 to State Highway 287; thence northwesterly along State Highway 287 to the point of beginning.

(ii) An area of land, water and airspace with the following boundary (Boise Meridian): Beginning at the point where the western boundary of the Kootenai National Forest intersects the Great Northern Railroad line in T61N R3E; thence easterly along said railroad line to the Idaho-Montana border; thence southerly along said border to the western boundary of the Kootenai National Forest; thence northerly along said boundary to the point of beginning.

(iii) An area of land, water, and airspace with the following boundary (Boise Meridian): Beginning at the point where the Idaho-Washington border intersects the U.S.-Canada border; thence easterly along the U.S.-Canada border to the eastern boundary of the Kaniksu National Forest in T65N R2W; thence southerly along said boundary to the south line of T63N; thence westerly along the south line of T63N to the Idaho-Washington border; thence northerly along said border to the point of beginning.

Washington. An area of land, water, and airspace with the following boundary (Willamette Meridian): beginning at the point where the west line of R44E intersects the U.S.-Canada border; thence easterly along said border to the Washington-Idaho border; thence southerly along the Washington-Idaho border to the south line of T39N; thence westerly along the south line of T39N to the west line of R44E; thence northerly along the west line of R44E to the point of beginning.

[FR Doc.76-32607 Filed 11-4-76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A394]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in West Carroll Parish, Louisiana, as a result of cold weather from March 15 through April 15, 1976, and drought July 4 through September 27, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than December 31, 1976, for physical losses and July 21, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 29th day of October 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–32545 Filed 11–4–76;8:45 am]

[Notice of Designation Number A392]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in St. Lawrence County, New York, as a result of excessive rainfall May 1 through September 20, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans must be received by this Department no later than December 20, 1976, for physical losses and July 20, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 29th day of October 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–32546 Filed 11–4–76;8:45 am]

[Notice of Designation Number A393]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following North Carolina Counties as a result of drought July 1 through September 13, 1976, in Cabarrus County; drought July 1 through August 31, 1976, in Davie County; drought January 1 through August 6, 1976, in Iredell County; drought July 1 through August 31, 1976, in Lincoln County; drought July 5 to September 14, 1976, in Mecklenburg County; and drought April 1 to April 30 and June 17 to September 1, late frost April 27 and May 9, excessive rainfall with flooding May 1 to June 17, a hailstorm June 14, and sandstorms May 10, June 11 and June 12, 1976, in Montgomery County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor James E. Holshouser, Jr., that such designation be made.

Applications for emergency loans must be received by this Department no later than December 20, 1976, for physical losses and July 20, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 29th day of October 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–32547 Filed 11–4–76;8:45 am]

[Notice of Designation Number A386]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of the following natural disasters:

Bee—Drought October 15, 1975 through June 30, 1976, and excessive rainfall July 1 through July 15, 1976.
Brooks—Excessive rainfall July 5 through July 15, 1976.
Calhoun—Excessive rainfall July 10 through July 15, 1976.
Duval—Excessive rainfall July 5 through July 15, 1976.
Goliad—Excessive rainfall July 5 through July 16, 1976.
Jackson—Excessive rainfall July 4 through July 14, 1976.
Kleberg—Excessive rainfall July 6 through July 14, 1976.
Lamb—Drought January 1, through August 12, 1976, and hailstorms July 29, 1976, and August 2, 1976.
Live Oak—Drought September 1, 1975, through July 4, 1976, and excessive rainfall July 5 through July 15, 1976.
Nueces—Excessive rainfall July 3 through July 10, 1976.
Refugio—excessive rainfall July 5 through July 16, 1976.
San Patricio—excessive rainfall July 6 through July 11, 1976, and July 13 through July 15, 1976.
Victoria—excessive rainfall July 5 through July 16, 1976.
Willacy—excessive rainfall July 6 through July 15, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68 and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than December 14, 1976, for physical losses and July 13, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of pro-